

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST LEE COX, Jr.,
Plaintiff,

v.

VASUKI DARAM, et al.,
Defendants.

No. 2:20-cv-1295 KJM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 17, 2020, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within thirty days. Plaintiff has filed objections to the findings and recommendations, and defendants a response to the objections.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis. The court sympathizes with Mr. Cox's concerns about the side effects of sleep apnea and the limitations currently imposed on CPAP machines as a result of the ongoing coronavirus

1 pandemic. *See generally* Objections, ECF No. 15. These concerns, however, do not show that he
2 is likely to succeed on the merits of his legal claims, that he will suffer irreparable harm if he is
3 not immediately permitted to use a CPAP machine, that the balance of equities falls in his favor,
4 or that a temporary restraining order would serve the public interest. *See Winter v. Natural Res.*
5 *Def. Council*, 555 U.S. 7, 20 (2008).

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The findings and recommendations filed August 17, 2020, are adopted in full; and
- 8 2. Plaintiff's motion for a temporary restraining order (ECF No. 1) is denied.

9 DATED: November 5, 2020.

10
11 
12 _____
13 CHIEF UNITED STATES DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28